Nebraska Charitable Endowment Tax Credit

Pursuant to provisions of sections 77-27,228 to 77-27,234 of the Nebraska Revised Statutes as amended by LB 1010 (2006 Legislature), for tax years beginning on or after January 1, 2006, but beginning before January 1, 2010, resident individuals, resident estates or trusts, and businesses including corporations may be entitled to a non-refundable credit on their Nebraska income tax returns for a percentage of certain planned gifts or contributions made to particular charitable organizations. (Review specific details below.)

General Provisions and Definitions

A **Planned Gift** means an irrevocable contribution to a permanent qualified endowment using one of the following techniques authorized under the Internal Revenue Code of 1986, as amended (the Code):

Charitable remainder trusts (both unitrusts and annuity trusts) as defined by section 664 of the Code.

A charitable remainder trust (CRT) is a trust in which the donor reserves an income-type interest for himself or a family member for life or for a term of years not to exceed 20. At the end of the income-type interest, the property goes to a charity named at the outset. Some requirements for the unitrusts (CRUTs) and annuities (CRATs) are the same, others are unique for either;

Pooled income fund trusts, as defined by section 642(c)(5) of the Code.

A pooled income fund offers an opportunity for an individual to make a gift to a charity while enjoying the income from it for his lifetime or designating a family member or other person to receive the income. A pooled income fund resembles a mutual fund in that gifts of various donors are merged and each donor or his named beneficiary receives his allocable share of the income earned by the fund;

Charitable lead trusts (both unitrusts and annuity trusts) qualifying under section 170(f)(2)(B) of the Code.

A charitable lead trust is a charitable gift of an annuity or unitrust interest followed by
a non-charitable remainder interest. A gift or estate tax deduction is allowed for the present value of the charity's interest but a gift of the remainder interest is subject to transfer tax. An income tax deduction is allowed if the donor is treated as the owner of the trust under the grantor trust rules. A remainder interest is a right to receive property at the end of one or more measuring lives or some other defined period;

Charitable gift annuities (both current and deferred) undertaken pursuant to section 1011(b) of the Code and Nebraska Revised Statute sections 59-1801 to 59-1803.

With a charitable gift annuity, an individual makes a gift to charity of cash or property
in return for the charity's promise to pay him (or other named individual) an annuity for life or some other term. The value of the property donated, less the value of the

annuity as determined under the IRS valuation tables, qualifies for the charitable income tax deduction. If appreciated property is transferred for a charitable annuity, the bargain sale rules require the donor to recognize gain on some of the appreciation of the gift property;

Charitable life estate agreements qualifying under section 170(f)(3)(B) of the Code.

A charitable life estate agreement is a contribution of a remainder interest in a personal residence or farm, an undivided portion of an entire interest in property, or a qualified conservation contribution. A life estate is the right to receive income from property, or to use non-income producing property, for life. A conservation purpose would be the preservation of land areas for outdoor recreation or the education of the general public; the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem; the preservation of open space for the scenic enjoyment of the general public or pursuant to a clearly delineated governmental conservation policy; or the preservation of an historically important land area or a certified historic structure; or

Paid-up life insurance policies qualifying as a deduction under section 170 of the Code.

Paid-up life insurance is insurance that remains in effect even though no more premiums are due. The contribution of a paid-up life insurance policy must transfer the entire ownership of the policy to the charitable organization. The amount used for the credit calculation is the value of the contribution as determined under applicable Federal guidelines, not the amount of life insurance coverage.

Contributions by individuals, S corporations, partnerships, or limited liability companies which do not utilize one of the specific **planned gift** techniques identified above will not qualify for this credit.

A Qualified Endowment, for purposes of the Nebraska Charitable Endowment Tax Credit, is a permanent, irrevocable fund used for Nebraska charitable purposes and held by a Nebraska incorporated or established organization which is a tax-exempt organization under section 501(c)(3) of the Code, or held by a Nebraska incorporated or established bank or trust company that is holding the fund on behalf of such tax-exempt organization.

Contributions to national tax-exempt organizations that are not incorporated or established in Nebraska do not qualify for this credit. An example of this type of organization would be the National Endowment for the Arts.

The Amount of Credit is limited to **$5,000** of non-refundable credit per taxpayer regardless of the gifting method used or the source of the contribution (individual gift, flow through from qualifying entity, etc.). The amount of charitable contribution must qualify for deductibility on the federal return and is also eligible for the Nebraska Charitable Endowment Tax Credit on the Nebraska return. The amount of credit claimed must be supported by adequate documentation.

Individuals

The Nebraska Charitable Endowment Tax Credit is only for Nebraska residents and is calculated at **15 %** of a planned gift to a qualified endowment, up to a maximum **$5,000** credit, but not to exceed the individual's income tax liability. The credit is entered on line 26 of the 1040N.

The credit may flow through from qualifying small business corporations, partnerships, or limited liability companies to their shareholders, partners, and members (see **Small Business Corporations, Partnerships, or Limited Liability Companies** below). The credit cannot be carried back or forward, and shall only be applied to the tax year in which the contribution is made.

An individual taxpayer may qualify for a maximum credit of $5,000; thus, married-filing joint taxpayers may qualify for up to $10,000 of credit on their Nebraska return. Each taxpayer filing a joint return must show distinct separate planned gifts, or planned gifts of jointly owned property or annuities of sufficient amount.

Adequate documentation to substantiate the credit claimed shall be a statement attached to the Nebraska return that includes the following:

1. Name, address, and federal identification number of the qualified endowment or a statement from the partnership, S Corporation, or fiduciary if the individual has received a credit distributed from one of these pass-through entities;.
2. Value of the planned gift as determined under applicable federal guidelines; and
3. Date the gift was contributed.

Taxpayers may not claim contributions made by their dependents.

The worksheet below, may be used to calculate the credit.

Nebraska Charitable Endowment Tax Credit	
Federal contribution value of the planned gift(s)	$
X 15 %	X .15
Total (line 26 if the 1040N)	$
The total credit cannot exceed $5,000.00.	

S Corporations, Partnerships, and Limited Liability Companies

The credit is calculated at **15%** of a planned gift to a qualified endowment, and may flow through from qualifying small business corporations, partnerships, or limited liability companies to their shareholders, partners, or members when the entity makes such a gift. In order to qualify, the entity must be carrying on rental activity; or carrying on a trade or business for which deductions would be allowed under section 162 of the Code.

The credit is to be disbursed to the shareholders, partners, or members in the same proportion used to distribute income or loss for income tax purposes. The credit for each shareholder, partner, or member will be calculated in the same manner, and is subject to the same limitations and restrictions, as the credit for individuals (see above). The credit cannot be carried back or forward, and can only be claimed in the tax year in which the contribution is made. The credit applies to the same tax year end used to report income. The credit cannot be used to offset non-resident withholding.

If a Partnership, S Corporation, or Limited Liability Company (LLC) is acting as a pass-through entity for this credit, it is required to file a return with an attached statement that includes:

1. Name, address, and federal identification number of the qualified endowment;
2. Value of the planned gift as determined under applicable federal guidelines;
3. Date the gift was contributed; and
4. A list of all shareholders, partners, or members, their social security or federal identification numbers, and amount of credit distributed to each shareholder, partner, or member.

The S Corporation, Partnership, or LLC must also supply each shareholder, partner, or member with a statement that includes the same information as indicated in items 1 - 3 above, as well as identifying the pass-through entity and the partner, shareholder, or member by name and social security or federal identification number, and the distributive share of credit for the shareholder, partner, or member.

C Corporations

The Nebraska Charitable Endowment Tax Credit is calculated at **10%** of any outright contribution to a qualified endowment, up to a maximum **$5,000** credit regardless of the source of the contribution (including flow through of a planned gift from a qualifying entity), but not to exceed the corporate taxpayer's income tax liability. The credit is entered on line 15 of the Form 1120N. The credit cannot be carried back or forward, and shall be applied only to the tax year in which the contribution is made. The credit applies to the same tax year end used to report income.

The C Corporation must attach a statement to the Form 1120N which includes:

1. Name, address, and federal identification number of the qualified endowment;
2. Amount of the contribution; and
3. Date the contribution was made.

The worksheet, below, may be used to calculate the credit.

Nebraska Charitable Endowment Tax Credit	
Federal contribution value	$
X 10 %	X .10
Total (line 15 of the 1120N)	$
The total credit cannot exceed $5,000.00.	

Estates or Trusts

The Nebraska Charitable Endowment Tax Credit, for a resident estate or trust, is calculated at **15%** of a planned gift or **10%** of an outright gift to a qualified endowment, up to a maximum

$5,000 credit, but not to exceed the fiduciary's income tax liability. The credit used by the estate or trust is entered on line 16 of the Form1041N. Any portion of the $5,000 credit not used by the estate or trust may pass through to beneficiaries in the same proportion used to report the beneficiary's income from the estate or trust. The credit received by the beneficiary, in combination with any other Nebraska Charitable Endowment Tax Credit earned, cannot exceed a maximum of **$5,000**. The credit cannot be carried back or forward, and can only be claimed in the tax year in which the contribution is made. The credit applies to the same tax year end used to report income.

The credit cannot be used to offset non-resident withholding.

If an estate or trust is using the credit or acting as a pass-through entity for this credit, it is required to attach a statement to it's Form 1041N which includes:

1. Name, address, and federal identification number of the qualified endowment;
2. Value of the planned gift as determined under applicable federal guidelines or, if not a planned gift, the total amount of contribution;
3. Date the gift or contribution was made; and
4. A list of all beneficiaries, their social security or federal identification numbers, and amount of credit distributed to each beneficiary.

	NE Charitable Endowment Tax Credit for Planned Gifts	
1	Federal contribution value	$
2	X 15%	0.15
3	NE Charitable Endowment Tax credit earned (line 1 X line 2)	
4	NE Charitable Endowment Tax credit received from other sources	
5	Total Credit (line 3 plus line 4) (cannot exceed $5,000)	$
6	Credit used by the estate or trust (line 12, Form 1041N minus line 5 of this worksheet)	
7	Credit available for distribution to beneficiaries (line 5 - line 6).	$

	NE Charitable Endowment Tax Credit for Outright Gifts	
1	Total gift amount	$
2	X 10%	0.10
3	NE Charitable Endowment Tax credit earned (line 1 X line 2)	
4	NE Charitable Endowment Tax credit received from other sources	
5	Total Credit (line 3 plus line 4) (cannot exceed $5,000)	$
6	Credit used by the estate or trust (line 12, Form 1041N minus line 5 of this worksheet)	
7	Credit available for distribution to beneficiaries (line 5 - line 6).	$

If the estate or trust distributes any portion of the credit to its beneficiaries as a pass-through entity, it must also supply each beneficiary with a statement that includes the same information as indicated in items 1 - 3 above, as well as identifying the estate or trust and the beneficiary by name and social security or federal identification number, and the distributive share of credit for the beneficiary.

Life Expectancy Tables

Pursuant to Section 77-27,228(2)(b) of the Nebraska Revised Statutes, the Department of Revenue has adopted the life expectancy tables from actuarial tables contained in certain publications of the Internal Revenue Service. The relevant life expectancy tables are those referred to in Internal Revenue Service Regulation § 1.401(a)(9)-9. These life expectancy tables may be found in IRS Publication 590, and are to be used for calculating life expectancies when making contributions via deferred charitable gift annuities so that they may properly qualify as planned gifts. See Revenue Ruling 22-05-3.